

REMARKS/ARGUMENTS

The above amendment with the following remarks is submitted to be fully responsive to the Office action dated October 21, 2009, and resubmitted in response to the Notice of Non-Compliant Amendment dated February 22, 2010. Claims 139-155 are pending, with claims 139, 152, and 154 being independent. Claims 1-138 and claims 156-175 were previously canceled without prejudice. Claims 141, 143, 145, and 153 have been amended to correct certain minor inconsistencies noted during a review of the patent application. No new subject matter has been added. Initially, the Applicant would like to thank the Examiner for the indication of allowability of claims 140-147 and 149-151 and the allowance of claims 152-155. As will be explained below, the Applicant believes that all claims currently pending in the patent application are in a condition for allowance.

That is claims 139 and 149 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lovell et al. 20050263281 in view of Hemmings 6693660. However, the Applicant's attorney does not understand the basis for this rejection and therefore respectfully disagrees with same. In particular, the present patent application is a national stage entry of PCT/GB03/03785 which has a 371(c) filing date of August 29, 2003. Lovell et al., on the other hand, has a filing date of May 23, 2005 and claims priority to a provisional patent application filed on May 28, 2004 – which are after the 371(c) filing date (August 29, 2003) of the present patent application. Thus, Lovell et al. does not appear to be prior art under 35 U.S.C. §§102-103 and should not be used to reject the claims in the present patent application.

In view of the foregoing, the Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 139 and 149 in view of Lovell et al. and Hemmings. If there is some particular deficiency that the Applicant's attorney has overlooked, it would be appreciated if the Examiner would note such deficiency and same will be expeditiously corrected to obtain allowance of the present patent application.

Further, in the Office action, the Examiner noted that this application currently names joint inventors and then advised the Applicant of their obligations under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(c), (f) or (g) prior art under 35 U.S.C. 103(a). The Applicant appreciates the Examiner noting its obligations and has checked and made sure that the subject matter was commonly owned at the time the inventions set forth in the claims were made.

CONCLUSION

Consideration of the foregoing remarks and withdrawal of the rejections are respectfully requested by Applicant. It is believed that each ground of rejection raised in the Office action dated October 21, 2009 has been fully addressed, that a complete listing of all claims has been presented in accordance with the Notice of Non-Compliant Amendment dated February 22, 2010, and that the application is now in condition for allowance and earnestly seeks such by the Examiner. If any fee is due as a result of filing this paper, please appropriately charge such fee to Deposit Account No. 50-2183 (Ref. No. 101.0083) and please credit any excess fees to such deposit account. If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore.

If the Examiner deems that any issue remains after considering this paper, the Examiner is invited to contact the undersigned attorney to expedite the prosecution of the application and engage in a joint effort to work out a mutually satisfactory solution.

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Respectfully submitted,

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